

## **Superior Court Implements New Administrative Directive for Business Litigation Sessions**

The Superior Court has revised the administrative directive relating to the Business Litigation Sessions. As of March 1, 2017, [Superior Court Administrative Directive No. 17-1: Superior Court Business Litigation Sessions](#) supersedes [Superior Court Administrative Directive No. 09-1](#). Below is a summary of the changes:

1. **A general rewrite of directive:** The language of the revised directive has been tightened up and headings have been added to make it easier to read.
2. **Clarification of venue issue:** Even if venue does not lie in Suffolk County, that will not bar acceptance of a case into BLS since venue may always be waived. The defendant maintains the right to object to venue in a timely fashion. The remedy for improper venue is transfer of the case to the county where venue is proper, not dismissal.
3. **Clarification of procedure for handling *ex parte* and emergency requests made at the time of filing:** The BLS judge will decide these requests if the case is accepted into the BLS. If the case is not accepted, such requests will be dealt with by the judge in the session to which the case is assigned.
4. **Expansion of power to transfer case from regular Suffolk County Civil Session to BLS:** In the past, many judges have, after their own review, referred cases for consideration to the BLS, *sua sponte*, after determining that the case is best suited for the BLS. The revised directive explicitly grants the session judge the power to refer a case to the BLS through a written Order of Referral. After reviewing the Order of Referral, the BLS Administrative Justice may approve or deny the session judge's transfer request. The revised directive also gives the BLS Administrative Justice the power to transfer a case filed in Suffolk County to the BLS on her own. It should be noted that this power is intended to be exercised sparingly – generally, only as to those cases that clearly meet BLS criteria AND have just been filed, before any session judge has become involved. These transfer procedures also apply to cases filed outside of Suffolk County, subject to the issue of venue.
5. **No real change as to cases filed outside of Suffolk County:** Because a party can prevent a transfer of a case to the BLS if venue does not lie in Suffolk County, no transfer can occur without a waiver of venue.
6. **Minor changes to categories of cases that qualify for BLS:** Categories h.1 and h.2 expressly reference class actions in the revised directive. Category i.1 has been reworded to include all professional malpractice claims except those involving personal injury or death. Category k.1 now expressly references commercial lease disputes. None of these are substantive changes, but simply reflect the kinds of cases already being accepted into the BLS.